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Letter dated 17 November 2017 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, submitted pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I should be grateful if you would have the present letter and its annexes circulated to the Security Council.

(*Signed*) Theodor **Meron**

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Annex I

[Original: English and French]

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 May to 15 November 2017

1. The present report, the eleventh in a series, is submitted pursuant to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.[1] Certain information contained in the present report is also submitted pursuant to paragraph 20 of Council resolution 2256 (2015).

I. Introduction

2. By its resolution 1966 (2010), the Security Council established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals. Pursuant to the same resolution, the Mechanism shall operate for an initial period of four years and, subsequently, for periods of two years, following reviews of its progress, unless the Council decides otherwise.

3. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for a number of functions of both International Tribunals, including with regard to a range of judicial activities, the enforcement of sentences, the protection of victims and witnesses and the management of archives. During the reporting period, the Mechanism was actively engaged in carrying out those responsibilities.

4. The Mechanism is notably engaged in a period of heightened judicial activity with the commencement of the retrial in the *Stanišić and Simatović* case, the ongoing appeal proceedings in the *Karadžić* and *Šešelj* cases and continued review proceedings in the *Ngirabatware* case, in addition to a wide range of other judicial activities. Furthermore, any appeals that may arise from the *Mladić* judgment scheduled to be rendered by the International Tribunal for the Former Yugoslavia on 22 November 2017 would fall to the Mechanism. This heightened activity comes at a time when the Mechanism is preparing to stand fully on its own, for the first time, after the closure of the International Tribunal for the Former Yugoslavia at the end of 2017.

5. As the International Tribunal for the Former Yugoslavia finalizes its remaining work, the Mechanism continues to work closely with the principals and staff of the Tribunal to ensure a smooth and efficient transition of the remaining functions and services of the Tribunal to the Mechanism.

6. The Mechanism remains guided in its activities by the Security Council's vision of it as a small, temporary and efficient structure, the functions and size of

[1] Unless otherwise specified, figures provided in the present report are accurate as at 15 November 2017.

which will diminish over time, with a small number of staff commensurate with its reduced functions. To that end, the Mechanism continues to draw upon the best practices of and lessons learned from both International Tribunals and from other tribunals to actively pursue new ways to improve its operations, procedures and working methods and to maintain flexibility in staff assignments. By doing so, the Mechanism seeks to maximize effectiveness and efficiency across both of its branches, while maintaining relatively low staffing levels.

7. The Mechanism is mindful of the temporary nature of its mandate. Wherever possible, detailed projections of the duration of residual functions entrusted to the Mechanism are reflected in the present report, in accordance with Security Council resolution 2256 (2015). Such projections are based on available data and, as a consequence, are at the present stage of the Mechanism's work both limited in nature and subject to modification in the event of evolving circumstances.

II. Structure and organization of the Mechanism

8. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals — the President, the Prosecutor and the Registrar — who have responsibility over two branches, one located in Arusha, United Republic of Tanzania, and the other in The Hague, Netherlands. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda. The branch in The Hague commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

A. Organs and principals

9. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: the Chambers; the Prosecutor; and the Registry, to provide administrative services for the Mechanism. The workloads of the Chambers and of the Registry are set forth below.

10. The President of the Mechanism is Judge Theodor Meron, the Prosecutor is Serge Brammertz and the Registrar is Olufemi Elias.

B. Judges

11. Article 8 of the statute of the Mechanism provides that the Mechanism shall have a roster of 25 independent judges. Pursuant to article 8, paragraph 3, of the statute, judges shall only be present at the seats of the branches of the Mechanism as necessary at the request of the President to exercise the functions requiring their presence. In so far as possible, and as decided by the President, the functions may be exercised remotely.

12. In furtherance of the Mechanism's effective and transparent management, the President continued his practice of providing regular written updates and briefings to his fellow judges on matters related to the work of the Chambers and of the Mechanism as a whole.

13. On 6 October 2017, the President convened a plenary of the judges, to be conducted remotely by written procedure in accordance with the Rules of Procedure and Evidence of the Mechanism. The plenary, which was called to consider certain

matters related to the internal functioning of the Mechanism, is being conducted in stages to ensure more efficient communication processes and is ongoing.

C. The branches

14. In accordance with article 3 of the statute of the Mechanism, the Mechanism's two branches have their seats in Arusha and The Hague, respectively. The Mechanism continued to enjoy excellent cooperation with the host State at each of its two branches, in accordance with the headquarters agreements in place for each branch.

15. The new premises of the Arusha branch of the Mechanism were occupied by staff on 5 December 2016. The post-construction phase, a period of 12 months that includes the completion of required remedial works, the appropriate recovery of direct and indirect costs arising from delays where economically feasible,[2] the completion of the transition from project management to facilities management and the final closure of the project account, is ongoing. Particular attention is being paid to correcting certain technical defects of the facility constructed to host the archives of the International Criminal Tribunal for Rwanda. The Mechanism remains deeply grateful to the United Republic of Tanzania for its generous and steadfast support throughout this project.

16. The Mechanism's sub-office in Kigali continued to provide protection and support services to witnesses and to support the activities of the monitors of the cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, pursuant to article 6 of the statute of the Mechanism.

17. The branch of the Mechanism in The Hague is co-located with the International Tribunal for the Former Yugoslavia. The Mechanism has a strong preference, for efficiency and cost-effectiveness, for remaining at its current premises after the closure of the Tribunal. To that end, the Mechanism is finalizing negotiations with the owners of the premises to transfer the lease of the International Tribunal for the Former Yugoslavia and extend it to the forthcoming biennium. Technical discussions and negotiations with the authorities of the host State and the owners of the premises regarding long-term occupancy are ongoing and progressing.

18. Preparations were under way for the Mechanism to assume full responsibility for a sub-office in Sarajevo, which is being maintained to facilitate essential liaison activities, witness protection and other purposes. Operations previously conducted through the sub-office of the International Tribunal for the Former Yugoslavia in Belgrade were being consolidated and streamlined with the support of staff in The Hague.

D. Administration and staffing

19. The basic requirements for a small, self-standing Mechanism administration were developed in cooperation between the Mechanism and the International Tribunals and included in the budgets for the Mechanism for 2014–2015 and 2016–2017, as approved by the General Assembly. In line with those requirements, the recruitment of the Mechanism's administrative staff has occurred in phases, as the International Criminal Tribunal for Rwanda closed and the International Tribunal for the Former Yugoslavia downsizes, gradually transferring administrative

[2] Pursuant to General Assembly resolution 70/258 (2016), para. 7.

functions to the Mechanism. As a result, the Mechanism will be fully independent by the end of 2017. The phased transfer of administrative functions and the extensive use of double-hatting have avoided the duplication of resources and maximized economies of scale. The resources for the self-standing administration are included in the proposed budget for the Mechanism for the next biennium.

20. In the meantime, the Human Resources, Budget and Finance, Procurement, Information Technology, Security and General Services Sections of the International Tribunal for the Former Yugoslavia continued to perform their functions for the Tribunal and for both branches of the Mechanism. They did so in accordance with the plan for the transfer of administrative functions to the Mechanism and with the support of a limited number of Mechanism administration staff, commensurate with the Mechanism's size.

21. During the reporting period, the Mechanism's formal staff union-management negotiation body, the Joint Negotiating Committee, convened for the first time. In view of the Mechanism's design as a small, temporary and efficient structure and its need to be able to both expand and contract its staffing levels as warranted by its work and in accordance with its statute, the Committee commenced consideration of a fair and transparent process to be followed with regard to staff reductions, building upon the lessons learned during downsizing at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

22. The Mechanism had a very low vacancy rate of 5 per cent for its continuous posts. As at 1 November 2017, 167 of the 176 continuous posts approved for the biennium to carry out the Mechanism's continuous functions were occupied. An additional 313 personnel were serving as general temporary assistance to assist with ad hoc needs, including judicial work, litigation and transition issues. Those positions were short-term in nature and, consistent with the flexible staffing structure of the Mechanism, the number of such staff will fluctuate depending on workload. Since the commencement of the work of the Mechanism, recruitment has occurred in full respect of all applicable rules, and no case has been brought before the Organization's internal justice system.

23. The Mechanism's continuous and general temporary assistance positions included nationals of 69 States, namely: Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Canada, China, the Congo, Croatia, Cuba, Cyprus, Czechia, the Democratic Republic of the Congo, Denmark, the Dominican Republic, Egypt, Fiji, Finland, France, Germany, Ghana, Guatemala, Guinea, Haiti, Indonesia, Iraq, Ireland, Israel, Italy, Jamaica, Kenya, Latvia, Lebanon, Lesotho, Liberia, Madagascar, Mali, Nepal, the Netherlands, New Zealand, the Niger, Nigeria, Pakistan, the Philippines, Poland, the Republic of Korea, Romania, the Russian Federation, Rwanda, Samoa, Senegal, Serbia, Sierra Leone, South Africa, the Sudan, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Zambia and Zimbabwe.

24. Fifty-eight per cent of professional staff are women, which goes beyond the gender parity goals set by the Secretary-General. Further details concerning the staffing by division of the Mechanism are provided in enclosure 1.

25. It should be noted that the Mechanism continued to rely heavily on double-hatting arrangements with the International Tribunal for the Former Yugoslavia during the reporting period. The approved budget levels take into account the support provided by staff members charged against posts of the Tribunal under those arrangements. Further details and a breakdown of the Mechanism's costs, presented in terms of funds committed, are provided in enclosure 2.

26. The Mechanism has put in place focal points for gender issues; sexual exploitation and abuse; lesbian, gay, bisexual and transgender concerns; and diversity and inclusion issues. The Mechanism has also appointed an interim focal point for disability and accessibility in the workplace, in accordance with the Secretary-General's bulletin on employment and accessibility for staff members with disabilities in the United Nations Secretariat (ST/SGB/2014/3). The focal point will be assisted by an interdisciplinary working group.

E. Legal and regulatory framework

27. Having established a structure to govern its activities, the Mechanism continued to develop rules, procedures and policies that harmonized and built upon the best practices of both International Tribunals, as well as its own practice, in order for the Mechanism to best achieve its mandate in a lean and efficient fashion.

28. During the reporting period, the President considered and provided feedback to the Registry on a variety of draft guidelines and policies, including with respect to occupational safety and health. He also issued a new practice direction on the use of the electronic court management system. The Registrar, in consultation with the President, promulgated several policy instruments related to translation and interpretation, including a code of ethics for interpreters and translators employed by the Mechanism.

29. Furthermore, and in consultation with the President, the Registry continued to work on the establishment of the Mechanism's legal aid regulatory framework. The remuneration policy for persons representing indigent convicted persons in post-conviction proceedings, upon issuance of a judicial order granting assignment of counsel at the expense of the Mechanism for International Criminal Tribunals was adopted on 28 September 2017. The guidelines for determining the extent to which an applicant for legal aid is able to remunerate counsel were adopted on 13 November 2017. With the adoption of that policy and of those guidelines, the Mechanism's regulatory framework for legal aid is now complete.

30. The Mechanism is also in the process of finalizing new rules governing the detention of persons awaiting trial or appeal before the Mechanism or otherwise detained on the authority of the Mechanism to be applied at both branches of the Mechanism. Those draft rules take into account, inter alia, previous practices of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, as well as the revised United Nations Standard Minimum Rules for the Treatment of Prisoners, and build upon recommendations of the International Committee of the Red Cross. Pending the adoption of the draft rules, the Registry began an assessment of possible revisions to associated regulations to ensure consistency throughout the Mechanism's regulatory framework governing detention matters. In the meantime, the rules of detention and related documents of the International Tribunal for the Former Yugoslavia continued to apply, mutatis mutandis, to Mechanism detainees at the branch in The Hague, while the rules of detention and related documents of the International Criminal Tribunal for Rwanda continued to apply, mutatis mutandis, to detainees at the Arusha branch.

31. At the time of reporting, there were 31 public legal and regulatory instruments and policies in effect at the Mechanism, as well as a growing number of internal guidelines and operating procedures. Those instruments, policies and other guidance documents provide important clarity and transparency for stakeholders across a broad range of the Mechanism's mandated functions.

III. Judicial activities

32. During the reporting period, the Mechanism was seized of a number of complex matters. The President and the judges continued to engage in a wide variety of judicial activity, issuing 211 decisions and orders. In accordance with article 8, paragraph 3, of the statute of the Mechanism, judicial activity was primarily carried out remotely. The President assigned matters to judges on the basis of an equitable distribution of workload. All of the judges on the roster were collectively supported by a lean Chambers team of 25 staff serving at both branches of the Mechanism.

33. Of the 211 decisions and orders issued during the reporting period, 55 (or approximately one in four) related to requests for access to confidential material or for the variation of protective measures. The requests were primarily made by prosecution authorities in national jurisdictions but also included requests from accused in national jurisdictions, accused or appellants in pending cases in relation to their defence or appeals and convicted persons seeking information in relation to possible requests for review. All such requests were primarily adjudicated by single judges working remotely or the presiding judge in a pending case and typically involved the issuance of one or more preliminary orders before the issuance of the final decision. Although it is not possible to foresee precisely when or how often requests related to protective measures may arise, as recognized in the report of the Secretary-General preceding the establishment of the Mechanism (S/2009/258), it is expected that requests for access to confidential material or the variation of protective measures will continue to be filed as long as cases continue to be investigated and prosecuted in national jurisdictions. In addition, accused or appellants will likely continue to file such requests while their cases are pending, as indicated below, and convicted persons are likely to do so until the conclusion of their sentences.

34. Judicial work was also carried out remotely by single judges in relation to other types of motions, including requests for the disclosure of exculpatory material or investigation into allegations of false testimony or contempt. As the Mechanism has a continuing obligation to safeguard the administration of justice, its duty to investigate and prosecute allegations of false testimony or contempt, subject to the provisions of article 1, paragraph 4, of its statute, will continue until its closure.

35. In addition to the above, the Mechanism judges continued their work on a trial and on appeals and requests for review related to the core crimes enumerated in the statute, as set forth below.

36. In the case of Jovica Stanišić and Franko Simatović, the trial commenced on 13 June 2017, and the presentation of the Prosecution's case is ongoing. It is currently expected that the Prosecution will conclude the presentation of its evidence by the end of June 2018. Following the conclusion of the Prosecution's case and the filing of the Defence's witness and exhibit list, it will become possible to make more detailed projections concerning the overall duration of the remaining trial proceedings. At the current stage of the proceedings, the three judges on the bench in the case are carrying out their work at the seat of the Mechanism, in The Hague.

37. The appeals by Radovan Karadžić and the Prosecution against the trial judgment issued on 24 March 2016 by a Trial Chamber of the International Tribunal for the Former Yugoslavia in the *Karadžić* case continued during the reporting period. The Trial Chamber had found Mr. Karadžić guilty of genocide, crimes against humanity and violations of the laws and customs of war and had sentenced him to 40 years of imprisonment. In their notices of appeal, filed on 22 July 2016,

Mr. Karadžić and the Prosecution presented a total of 54 grounds of appeal. Citing the unprecedented breadth and complexity of the case, the large amount of evidence on the record, the length of the trial judgment and the complexity of the issues raised on appeal, the parties requested that the Appeals Chamber grant extensions of time for the briefing process. The Appeals Chamber partly granted the requests and, after 217 days of extension, the briefing process concluded on 6 April 2017 with the filing of the parties' reply briefs. An appeal hearing is expected by the end of the second quarter of 2018 and the case is still expected to be completed in late 2019. At the current stage of the proceedings, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding as prescribed by the statute.

38. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of Vojislav Šešelj, finding him not guilty on all counts. The Prosecution filed its notice of appeal on 2 May 2016 and its appeal brief on 29 August 2016. On 8 July 2016, the President, as pre-appeal judge, authorized Mr. Šešelj in the circumstances of the case to file a response brief, if any, within 80 days of the receipt of the Bosnian/Croatian/Serbian translation of the complete trial judgment, including all appended judicial opinions and the Prosecution's appeal brief in Bosnian/Croatian/Serbian. In accordance with the order of the pre-appeal judge, Mr. Šešelj submitted his response brief on 19 December 2016 in Bosnian/Croatian/Serbian, and the English translation was filed on 7 February 2017. The briefing process concluded on 22 February 2017 with the filing of the Prosecution's reply brief. The appeal hearing has been scheduled for 13 December 2017, and a judgment is expected in the first part of 2018. At the current stage of the proceedings, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding as prescribed by the statute.

39. On 3 July 2016, Augustin Ngirabatware filed a request for review of his judgment. As described in previous reports, the proceedings in the case were delayed owing to the inability of Judge Aydin Sefa Akay to exercise his judicial functions in the case until his provisional release from detention on 14 June 2017. Thereafter, the Appeals Chamber was able to consider the merits of Mr. Ngirabatware's request. On 19 June, the Appeals Chamber thus granted the request for review and ordered the parties to file a list of proposed evidence and witnesses to be introduced at a review hearing. Preparations are currently under way for a hearing, which is expected to be held in the first quarter of 2018. At the current stage of the proceedings, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding as prescribed by the statute.

40. On 7 June 2017, Eliézer Niyitegeka filed a request for review of his judgment. The briefing concluded and the matter was being considered by a bench of the Appeals Chamber, with all judges on the bench, with the exception of the President, working remotely. A bench of the Appeals Chamber was also assigned to consider a request for review of judgment filed by Laurent Semanza on 9 October 2017, with respect to which briefing was ongoing. In addition, the Appeals Chamber issued decisions in three appeals from decisions taken by single judges in the *Tolimir*, *Niyitegeka* and *Kamuhanda* cases.

41. During the reporting period, the President of the Mechanism, pursuant to his authority in the area of enforcement of sentences, issued five decisions in response to requests for early release, as well as a number of other decisions. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable, through remote

procedure. The President also issued a number of additional orders and decisions, including three decisions related to a case referred to Rwanda and three decisions related to requests for review of administrative decisions. Moreover, the President issued 35 assignment orders, of which 26 were assignments to single judges and 9 were assignments to the Appeals Chamber.

42. With the exception of what is addressed above, projections for the duration of various judicial functions remain unchanged from those set forth in the Mechanism's review report of 20 November 2015 (S/2015/896, annex). Those projections reflect estimates based on factors such as past experiences with cases conducted at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, the scope of the case concerned, activity at the Mechanism to date and the efficient working methods of the Mechanism's Chambers. The projections are based on the presumption that no extraordinary events that might affect their conduct will occur during the course of the proceedings. All projections remain subject to periodic updating based on any new information. In that respect, the Mechanism recalls that, in its evaluation report of 12 May 2016, the Office of Internal Oversight Services (OIOS) indicated with respect to cases of the International Tribunal for the Former Yugoslavia that any changes based on the requirements of a just resolution of a case should not necessarily be construed as reflecting slippage in the conduct of a case and that accurate predictions as to completion could only be made at the close of a trial or at the conclusion of a briefing on appeal. With respect to projections for judicial activities other than trials and appeals from judgment, the Mechanism recalls the observations made in the report of the Secretary-General mentioned above that it was not possible to foresee when or how often requests related to contempt cases, protective orders, review of judgments, referral cases and pardon and commutation of sentences might arise, but that such issues were more likely to arise within a period of 10 to 15 years after the closure of the Tribunals, and that the level of work involved would inevitably decrease over time.

43. Efforts continued to streamline internal working methods and processes within Chambers and, in collaboration with various other Sections of the Mechanism, to further facilitate the maintenance of an efficient and transparent "one office" work environment that drew on the resources available at both branches of the Mechanism in order to address judicial workload collectively wherever arising. In addition, the President and senior staff members regularly exchanged information and views with representatives from other courts and tribunals with a view to identifying and sharing best practices in fair and expeditious case management. Moreover, the judges, whose legal backgrounds are roughly evenly split between civil and common law, continued to draw on their expertise and knowledge in the adjudication of the various matters to which they were assigned.

IV. Registry support to judicial activities

44. During the reporting period, the Registry continued to provide support to the Mechanism's judicial activities at both branches.

45. The Registry processed and disseminated more than 969 filings, including 97 Registry legal submissions, amounting to more than 14,018 pages. In addition, the Registry facilitated and serviced two status conferences in the *Karadžić* case and hearings during the trial phase of the *Stanišić and Simatović* case. With respect to the latter, the Registry facilitated court hearings in accordance with the Trial Chamber's court schedule, as well as the provision of testimony by witnesses via video-link conferences.

46. The Registry's Language Support Services translated 12,000 pages of documents, provided 332 conference interpreter days and produced 6,500 pages of transcript in English and French. This includes the Kinyarwanda Unit of the Language Support Services, which provides translations of, inter alia, monitoring reports with respect to cases referred to Rwanda. Furthermore, the Registry administered the Mechanism's legal aid system and provided various forms of assistance, financial and otherwise, to an average of 39 defence teams comprising a total of approximately 100 defence team members.

V. Victims and witnesses

47. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2), the Mechanism is responsible for the support and protection of the thousands of protected witnesses who have testified in cases completed by the two International Tribunals, as well as of those witnesses who have appeared or may appear before the Mechanism.

48. The Witness Support and Protection Unit continued to be fully operational at both branches of the Mechanism. Consistent with judicial protection orders, and in close collaboration with domestic authorities and other United Nations entities, the Unit provided security for witnesses by undertaking threat assessments and coordinating responses to security-related requirements. The Unit also ensured that protected witness information remained confidential, and it continued to contact witnesses when orders to seek consent to the rescission, variation or augmentation of witness protective measures were received. In addition, the Unit facilitated contact between parties and relocated witnesses or witnesses of opposite parties when so required.

49. As part of the provision of support services to witnesses by the Mechanism at the Arusha branch, witnesses residing in Rwanda continued to receive medical and psychosocial services. Those services are particularly focused on the witnesses experiencing psychological trauma or living with HIV/AIDS, as many of those who contracted the virus did so as a result of crimes committed against them during the genocide.

50. The witness protection teams at the two branches use a common information technology platform for their respective witness databases and continued to exchange best practices. The platform maximizes operational efficiency across both branches.

51. The Witness Support and Protection Unit implemented and complied with 36 judicial orders related to protected witnesses, including orders in relation to requests for the variation of protective measures. In addition, since May 2017, the Witness Support and Protection Unit has assisted with addressing requests for the variation of protective measures related to the International Tribunal for the Former Yugoslavia. The Unit at the branch in The Hague continued to receive new referrals for the assessment and implementation of protective measures.

52. The Witness Support and Protection Unit at the branch in The Hague supported witness activity in the retrial of the *Stanišić and Simatović* case. At the time of reporting, the Unit had facilitated the testimony of 26 witnesses in the case since its commencement on 13 June 2017.

53. Similarly, the Witness Support and Protection Unit at the Arusha branch was making the administrative and logistical arrangements necessary for witness activity related to the forthcoming hearing in the *Ngirabatware* review case.

54. During the reporting period, the Witness Support and Protection Unit at the Arusha branch, in collaboration with the Office of the United Nations High Commissioner for Refugees (UNHCR), intervened with authorities in national jurisdictions on behalf of 124 protected witnesses who testified before the International Criminal Tribunal for Rwanda, for consideration of exemption applications pertaining to the implementation of the UNHCR cessation clause of the Convention relating to the Status of Refugees of 1951.

55. It is expected that victim and witness protection will continue to be required in future bienniums in the light of the numerous judicial protection orders covering 3,150 victims and witnesses that will remain in force unless rescinded or waived. It is difficult to assess how long precisely the victim and witness protection function would need to remain operational. The provision of support may be required until the last victim or witness is deceased or, where applicable, until the cessation of protective measures covering a victim's or witness's immediate family members. In relation to relocated witnesses, support may be required until the last member of the immediate family is deceased.

VI. Fugitives and trial and appeal readiness

56. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism. Specifically, the Council urged all States, in particular those where fugitives were suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

57. Eight accused indicted by the International Criminal Tribunal for Rwanda remained fugitives. Of the eight fugitives, the Mechanism retained jurisdiction over three: Félicien Kabuga, Augustin Bizimana, and Protais Mpiranya. The cases of the other five fugitives have been referred to Rwanda by the International Criminal Tribunal for Rwanda. The arrest and prosecution of all eight remaining individuals remained a top priority for the Mechanism. The fugitive tracking function is within the responsibility of the Prosecutor and is discussed in his report (see annex II).

58. Consistent with its commitment to efficiency, the Mechanism continued to ensure that it was prepared to conduct a trial or appeal in the event of a fugitive being apprehended or of any ongoing proceedings of the International Tribunal for the Former Yugoslavia resulting in an appeal or retrial. Pursuant to article 15, paragraph 4, of the statute of the Mechanism, rosters of qualified potential staff have been established to enable the expeditious recruitment of the additional staff required to support those judicial functions.

59. Trial readiness will continue to be required as long as the cases of the remaining accused still at large are pending before the Mechanism, there is a possibility that a retrial may be ordered in any ongoing appeal proceedings or there is a possibility that the referral of a case to a national jurisdiction for trial may be revoked.

VII. Detention facilities

60. The Mechanism has managed and operated the United Nations Detention Facility in Arusha since the transfer of that function from the International Criminal Tribunal for Rwanda on 1 October 2015.

61. It is expected that the services of the Detention Facility in Arusha will continue to be required until the 10 persons currently awaiting transfer to an enforcement State are transferred or, alternatively, released. Once the remaining convicted persons are transferred, the Facility will retain an area commensurate to the detention of the remaining three fugitives expected to be tried by the Mechanism after they are apprehended and will provide a residual custodial capacity for other individuals who may appear before the Mechanism. The Facility will need to continue to be operational, albeit in a reduced capacity, during the trial and appeal of those persons and, if convicted, until their transfer to an enforcement State.

62. In The Hague, the Mechanism shares responsibility with the International Tribunal for the Former Yugoslavia for the provision of detention services at the United Nations Detention Unit. Management of Unit will be fully transferred to the Mechanism by 31 December 2017. The services of the Unit will continue to be required until all trials and appeals are concluded and all detained persons are released or transferred to an enforcement State, after which a reduced, residual custodial capacity for other individuals who may appear before the Mechanism may have to be arranged.

63. As described in more detail in section II. E above, the Mechanism is in the process of finalizing a regulatory framework to govern detention matters at both branches.

VIII. Cases referred to national jurisdictions

64. Pursuant to article 6, paragraph 5, of its statute, the Mechanism is responsible for monitoring cases referred to national courts by the two International Tribunals, with the assistance of international and regional organizations and bodies.

65. The cases of three individuals indicted by the International Criminal Tribunal for Rwanda and subsequently apprehended, Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa, were referred to Rwanda for trial. The *Uwinkindi* case was on appeal, as was the *Munyagishari* case. Trial proceedings were ongoing in the *Ntaganzwa* case. Two additional individuals indicted by the Tribunal, namely Laurent Bucyibaruta and Wenceslas Munyeshyaka, had their cases referred to France for trial. The *Bucyibaruta* case continued to be in the investigative/pretrial phase, while an appeal was pending before an Investigation Chamber in relation to the *Munyeshyaka* case after it was dismissed in 2015 by French investigating judges.

66. The Mechanism continued to monitor the cases referred to Rwanda with the pro bono assistance of six monitors from the Kenyan section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded on 15 January 2015 and subsequently amended on 16 August 2016 to formally encompass the *Ntaganzwa* case. An interim monitor continued to monitor the two cases referred to France. The public monitoring reports in all five cases are available on the Mechanism's website (www.unmict.org).

67. The Mechanism continued to monitor the status of the case of Vladimir Kovačević, which was referred to Serbia by the International Tribunal for the Former Yugoslavia in March 2007.

68. The Mechanism's activities in relation to cases referred to national jurisdictions are expected to continue for the duration of those cases. While each case is different, the experience with referred cases to date is instructive as to potential timelines. The *Ntaganzwa* case is currently at trial, approximately 18 months after the accused was transferred to Rwanda. Mr. Uwinkindi was

transferred to Rwanda for trial in 2012, and Mr. Munyagishari was transferred to Rwanda for trial in 2013. Both of their cases are currently at appeal stages. If any of the five remaining fugitives whose cases have been referred to Rwanda for trial are arrested, the estimate for the continuation of the Mechanism's monitoring function with respect to Rwanda will need to be assessed at that time. The two cases referred to France have been at the investigative/pretrial phase for 10 years and, as set forth above, remain ongoing. Further estimates for the continuation of the Mechanism's monitoring function with respect to France will depend upon decisions of the French judicial authorities in those cases.

IX. Enforcement of sentences

69. In accordance with article 25 of the statute of the Mechanism, the President has jurisdiction over enforcement issues related to the Mechanism and the two International Tribunals, including the authority to designate the States in which convicted persons are to serve their sentences, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence.

70. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of States Members of the United Nations that have concluded agreements for the enforcement of sentence or indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two International Tribunals continue to apply to the Mechanism, mutatis mutandis, unless superseded by subsequent agreements. The Mechanism continued its efforts to secure additional agreements to increase its enforcement capacity for both branches and it welcomes the cooperation of States in that regard.

71. Of the 23 persons convicted by the International Criminal Tribunal for Rwanda who are currently serving their sentences, 13 are in Mali and 10 are in Benin. The Mechanism is deeply grateful to both those States for their ongoing engagement in the enforcement of sentences, in full conformity with international standards. Ten convicted persons remain at the United Nations Detention Facility in Arusha, pending transfer to an enforcement State, and the Registrar continued to engage in negotiations with a variety of States, as a priority, concerning the possible enforcement of sentences for those prisoners. In particular, discussions with the Government of Senegal advanced during the reporting period with regard to the use by the Mechanism of cells in a Senegalese prison that were refurbished with the assistance of the United Nations.

72. Sixteen persons convicted by the International Tribunal for the Former Yugoslavia are currently serving their sentences. Those individuals are serving their sentences in nine States: Denmark (1), Estonia (3), Finland (2), France (1), Germany (4), Italy (1), Norway (1), Poland (2) and Sweden (1). Two convicted persons are at the United Nations Detention Unit in The Hague, awaiting transfer to an enforcement State. The Registrar continued negotiations with one potential enforcement State concerning the possible enforcement of their sentences.

73. The Mechanism, in coordination with national authorities and the United Nations Development Programme, continued efforts to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States. Improvements were made to the international wing of Koulikoro Prison in Mali and Akpro-Missérété Prison in Benin within the purview of the Mechanism's mandate, including enhancements that served to implement recommendations of an independent prison management expert engaged by the Mechanism.

74. The Mechanism continued to monitor closely the particular security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

75. It is the goal of the Mechanism to complete the transfer of all convicted persons currently held under the jurisdiction of the Mechanism at the United Nations Detention Facility in Arusha or the United Nations Detention Unit in The Hague to enforcement States in the course of 2018, subject to the cooperation of States, as detailed below in section XII. The functions related to the supervision of the enforcement of sentences carried out under the authority of the President will continue until the last prison sentence has been served, subject to the application of rule 128 of the Rules of Procedure and Evidence of the Mechanism, which allows for the possibility of designating another body to supervise the enforcement of sentences after the Mechanism ceases to exist, in the event that any convicted person remains imprisoned in an enforcement State at that time.

76. As set forth in the report of the Secretary-General mentioned above, it is not possible to foresee when or how often requests for pardon and the commutation of sentences may arise. Nevertheless, it was stated in that report that, in general terms, such issues were more likely to arise within a period of 10 to 15 years after the closure of the International Tribunals and that the level of work involved would inevitably decrease over time. It was also stated that the two Tribunals estimated that applications for commutation of sentence, pardon or early release could be expected until at least 2027 for cases of the International Tribunal for the Former Yugoslavia and until around 2030 for cases of the International Criminal Tribunal for Rwanda. While the Mechanism is generally in agreement with the above, that estimate, which was made in 2009, requires a slight adjustment, given the fact that several individuals currently serving life sentences will not be eligible for consideration of pardon, commutation of sentence or early release until at least 2035, even though they may seek such relief before that time.

X. Relocation of acquitted and released persons

77. The Mechanism continued to deploy focused efforts to facilitate sustainable solutions for the resettlement of acquitted and released persons and to provide those still residing in Arusha with relevant assistance, in line with the Strategic Plan for the Relocation of Acquitted and Released Persons. The number of acquitted and released persons in Arusha remained at 11 during the reporting period.

78. Through its consistent approach of seeking consensual relocation outcomes, the Mechanism continued to engage bilaterally with States that had, in principle, indicated willingness to accept one or more of those persons. The Mechanism also supported the private relocation efforts of acquitted and released persons by engaging with relevant government officials. Furthermore, the Registrar pursued high-level exploratory contacts with other relevant States in that regard.

79. The Mechanism remains fully dependent upon the goodwill of Member States in accepting acquitted and released persons for relocation in their countries. In view of the experience to date and of the numbers of individuals concerned, it remains unlikely that the Mechanism's approach will lead to a comprehensive solution for all individuals concerned within the foreseeable future; nevertheless, the Mechanism will continue to seek to achieve appropriate bilateral outcomes with relevant Member States. The Mechanism remains grateful to the Security Council and individual Member States for their ongoing support for relocation efforts in order to resolve this long-standing challenge, which will persist until such time as all acquitted and released individuals are appropriately relocated or are deceased.

XI. Archives and records

80. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two International Tribunals, which shall be co-located with the respective branches of the Mechanism. The management of the archives includes responsibility for the preservation, arrangement and description of records, their security and the provision of access thereto.

81. Archives are by definition records deemed to be of long-term to permanent value, and their management and preservation will have to be ensured accordingly. As noted in the report of the Secretary-General mentioned above, the management of the archives is one of the Mechanism's principal functions, and that particular function will continue even after other residual functions draw to a close. In the Secretary-General's bulletin on record-keeping and the management of United Nations archives of 12 February 2007 (ST/SGB/2007/5), the archives of the United Nations are defined as "records to be permanently preserved for their administrative, fiscal, legal, historical or informational value", regardless of form or medium.

82. The archives of the International Tribunals include materials concerning: investigations, indictments and court proceedings; work relating to the detention of accused persons, the protection of witnesses and the enforcement of sentences; and documents from States, other law enforcement authorities, international and non-governmental organizations and the general public. The materials exist in both digital and physical format and consist of documents, maps, photographs, audiovisual recordings and objects. The Mechanism Archives and Records Section has been tasked with preserving the materials and facilitating the widest possible access to them, while ensuring the continued protection of confidential information, including that concerning protected witnesses.

83. The Mechanism Archives and Records Section in Arusha is currently responsible for the management of more than 2,000 linear metres of physical records of both the International Criminal Tribunal for Rwanda and the Mechanism. In accordance with established retention policies, approximately 37 per cent of the records of the Tribunal that have been transferred to the Mechanism's Arusha branch are of temporary value. The Section is responsible for the periodic disposition of those records. During the current reporting period, the destruction of 80 linear meters of records was authorized. The Mechanism will remain responsible for the management of the 1,250 linear metres of records of the Tribunal that have been designated for permanent retention, as well as the records of archival value generated by the Mechanism.

84. In The Hague, the International Tribunal for the Former Yugoslavia transferred 787 linear metres of physical records to the Mechanism during the reporting period. More than 81 per cent of the physical records have now been transferred to the Mechanism. All judicial records from the Tribunal's closed cases have been transferred. Preparations are being made for the transfer of records of the Tribunal's last two cases, *Mladić* and *Prlić et al.*, in line with the target to achieve complete transfer of judicial records by the time the Tribunal closes. Currently, the physical repositories of the Mechanism Archives and Records Section in The Hague hold a total of 2,180 linear metres of records, which represents approximately 67.5 per cent of their capacity.

85. Furthermore, during the reporting period, the Mechanism Archives and Records Section in The Hague received an additional 2.4 per cent of digital records from the International Tribunal for the Former Yugoslavia, bringing the total of

transferred digital records to 90.4 per cent. Those digital records, as well as the digital records of the International Criminal Tribunal for Rwanda that have been transferred to the Mechanism Archives and Records Section in Arusha, will be incorporated into the Mechanism's digital preservation system. This system will provide for the long-term integrity, reliability and usability of the digital archives of the International Tribunals and the Mechanism. During the reporting period, the system was tested at both branches and procedures for ingesting records were developed. The ingestion of digital records is scheduled to commence before the end of 2017.

86. The updating of the public interface to access and search judicial records of the International Criminal Tribunal for Rwanda and the Mechanism continued throughout the reporting period: approximately 35,500 judicial records are currently available to the public through the interface. In addition, the Mechanism Archives and Records Section continued to provide substantive and technical support for the development of a unified system for managing the judicial records of both International Tribunals and the Mechanism.

87. The Mechanism Archives and Records Section continued its efforts to enhance efficiency and effectiveness and to improve working practices through the development and implementation of a comprehensive archives and records management governance framework. Those efforts included the development of key archives and record-keeping policies and strategies to ensure compliance with best practices, as well as policy instruments for their transparent and consistent implementation. The Section also streamlined procedures related to the creation and management of records, including procedures for the production of publicly accessible audiovisual recordings of judicial proceedings of the Mechanism and courtroom recordings of the two International Tribunals.

88. During the reporting period, the Mechanism Archives and Records Section continued its programme of exhibitions and events to bring attention to the Mechanism's archives. The activities of the Section were thus highlighted at the Legacy Dialogues Conference held by the International Tribunal for the Former Yugoslavia in Sarajevo in June 2017 and at the Preservation and Archiving Special Interest Group Conference held in Oxford, United Kingdom, in September 2017. In addition, the Mechanism hosted two international archival meetings, facilitated on-site visits and provided expert advice and briefings to multiple groups of participants at no cost to the organization.

XII. Cooperation of States

89. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with the Mechanism in relation to the investigation and prosecution of persons covered under the statute and to comply with orders and requests for assistance in relation to cases before the Mechanism. States are also required to respect the statute of the Mechanism owing to its adoption by the Security Council pursuant to Chapter VII of the Charter of the United Nations. The Mechanism, like the two International Tribunals, is dependent upon the cooperation of States.

90. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations conducted by the Prosecutor, and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in that respect. As indicated above, the Mechanism also relies on the cooperation of States for the enforcement of sentences.

91. The Mechanism continued to promote communication and cooperation with the Governments of Rwanda and of the States of the former Yugoslavia and it will continue to discuss matters of mutual interest with the Rwandan authorities, including means by which cooperation with the Government of Rwanda can be enhanced, in line with paragraph 23 of Security Council resolution 2256 (2015). In that regard, the Mechanism's Kinyarwanda Unit, established at the beginning of 2016, continued to translate trial judgments of the International Criminal Tribunal for Rwanda into Kinyarwanda. The translation of three such judgments, as well as of a number of decisions, was completed during the reporting period.

92. Representatives of the Mechanism, up to and including the level of the principals, also met with groups of victims and engaged with government officials from Rwanda and the States of the former Yugoslavia. After the closure of the International Tribunal for the Former Yugoslavia at the end of 2017, the Mechanism will assume the remaining responsibilities of that Tribunal with regard to facilitating the establishment of information and documentation centres in the region of the former Yugoslavia, in accordance with paragraph 15 of Security Council resolution 1966 (2010).

XIII. Assistance to national jurisdictions

93. The Mechanism routinely receives requests from national authorities or parties to national proceedings for assistance in relation to domestic proceedings concerning individuals allegedly implicated in the genocide in Rwanda or the conflict in the former Yugoslavia. During the reporting period, the Mechanism also received and considered requests to vary the protective measures for witnesses and disclose their testimony and evidence (see sect. III above). Comprehensive information and guidance for those who wish to request assistance are available on the Mechanism's website.

94. The data concerning requests for assistance submitted to both branches of the Mechanism continued to be centralized into one repository. The branches also continued to exchange best practices for the development of policies and training programmes with a view to maximizing operational efficiency and ensuring that the Mechanism provides effective assistance to national jurisdictions.

95. While it is not possible to foresee precisely when or how often requests for assistance from national jurisdictions may arise, it is expected that activities linked to such requests will continue concomitant to the investigation and prosecution of cases in domestic jurisdictions related to the genocide in Rwanda and the conflicts in the former Yugoslavia.

XIV. External relations

96. The External Relations Office, which has staff at both branches of the Mechanism, is tasked with the formulation of the Mechanism's external relations and communications strategy and the implementation of that strategy through external relations activities and communications services. Those activities and services include the organization of public events and exhibitions on matters of importance to the Mechanism, as well as the provision of support to the media in relation to the Mechanism's work.

97. On 17 May 2017, the External Relations Office organized a diplomatic briefing in The Hague. During the briefing, which was attended by more than 100 members of the diplomatic corps from The Hague and Brussels, the Mechanism

principals provided an overview of the Mechanism's key activities, outlined priorities in the forthcoming period and discussed other relevant issues. Informational materials on the Mechanism's work and mandate were produced for the occasion and provided to all attendees.

98. In The Hague, the External Relations Office has facilitated the attendance of the media and the general public at the retrial in the *Stanišić and Simatović* case since its proceedings commenced on 13 June 2017. The Office coordinated the logistical, technical and practical arrangements therefor and accredited some 20 regional and international broadcast and print journalists. The start of the retrial was widely broadcast and covered in the print media in the States of the former Yugoslavia and elsewhere, and the publicizing of the retrial on social media reached more than 60,000 users in June 2017 alone.

99. On 24 September 2017, the External Relations Office coordinated the Mechanism's participation in the International Open Day in The Hague, at which more than 900 visitors attended presentations by the principals, judges and staff and participated in courtroom tours and a range of other activities.

100. On 4 October 2017, the Mechanism launched "Children in Conflict", an online exhibition on violence against children during the conflicts in Rwanda and the former Yugoslavia in the 1990s. The exhibition relies on a selection of photographs, video and audio materials, transcripts and other official documents from the Mechanism's archives. The Mechanism also produced "Inside the MICT", an introductory video concerning the Mechanism's functions, as well as an online infographic on the Prosecutor's evidence collection in Arusha and The Hague.

101. In addition, the External Relations Office organized an event in Arusha on United Nations Day, on 24 October 2017, which was attended by pupils from international schools in Arusha who learned about the significance of United Nations Day and the work of the Mechanism.

102. Throughout the reporting period, the External Relations Office responded to a large number of queries from the media and researchers on cases under the Mechanism's jurisdiction, facilitated interviews with the President on major television networks and for print media and generally facilitated extensive coverage of the Mechanism's work during times of peak activity. In addition, the Office continued to coordinate meetings of the principals with the diplomatic community, civil society, the media and the public, including in Arusha, Dar es Salaam, United Republic of Tanzania, and The Hague. The Office also facilitated a number of visits by legal professionals, students and the general public to the Mechanism's premises in Arusha and The Hague.

103. As part of the efforts to further enhance awareness of the Mechanism's work by increasing the Mechanism's presence on social media platforms, the External Relations Office produced and added new content on a daily basis. Content posted on the Mechanism's Twitter account generated interaction from more than 205,000 users, while its Facebook posts reached more than 250,000 persons. The Mechanism website recorded more than 225,000 page views during the reporting period.

104. The Mechanism also continued to provide library services. The Arusha library hosted a number of delegations during the reporting period and continued to welcome researchers and members of the public from the Great Lakes region and beyond. The Arusha library processed an average of 446 requests per month, including research requests and loans. The Library and Reference Unit of the branch in The Hague continued to serve staff at both the International Tribunal for the Former Yugoslavia and the Mechanism. During the reporting period, the library processed more than 950 loans and research requests. The library further expanded

its network with other international law libraries in The Hague, as well as across the United Nations, to enhance its existing services and broaden its research capacity.

XV. Audit reports of the Office for Internal Oversight Services

105. During the reporting period, the Mechanism continued to benefit from regular audits by OIOS and the implementation of its recommendations. Three audit reports were issued during the reporting period.

106. The first audit report, issued in June 2017, assessed the effectiveness of liquidation activities at the International Criminal Tribunal for Rwanda, as requested by the General Assembly in its resolution 71/267. OIOS made one recommendation addressed to the Department of Management and another recommendation addressed to the Mechanism. The Mechanism partially accepted and implemented the latter recommendation.

107. The second audit report, issued in August 2017, focused on official travel at the International Tribunal for the Former Yugoslavia and the Mechanism. OIOS found that internal controls for the management of official travel were in place and made five recommendations, which the Tribunal and the Mechanism accepted and are implementing.

108. The third audit report was issued in September 2017 and concerned victim and witness management at the Mechanism. OIOS found that controls for the management of victim and witness issues at the Mechanism were generally adequate and made two recommendations, both of which were accepted and implemented during the course of the audit.

109. At the time of reporting, audits on the post-construction phase of the Arusha premises and on trial and appeal readiness, respectively, were being finalized. In addition, the Mechanism continued to implement recommendations made in earlier OIOS audits.

XVI. Conclusion

110. Following intensive preparatory work, the Mechanism is well placed to assume the remaining responsibilities of the International Tribunal for the Former Yugoslavia seamlessly at the end of 2017 and to fully stand on its own for the first time since the Security Council established the Mechanism in 2010. In reaching this milestone, the Mechanism has benefitted from sustained assistance from the Tribunal itself, the Office of Legal Affairs and the Department of Management of the Secretariat. It also acknowledges the vital ongoing support and cooperation from its host States, the Netherlands and the United Republic of Tanzania, as well as those of Rwanda, the States of the former Yugoslavia and individual Member States of the United Nations with respect to specific issues. This support is crucial to the continued success of the Mechanism, which maintains its focus on carrying out its mandate as a temporary institution in the most efficient and cost-effective manner possible.

Enclosure 1

International Residual Mechanism for Criminal Tribunals: staffing*

Table 1
Number of staff by branch and organ

Category	*Arusha branch*	*The Hague branch*	*Chambers*[a]	*Office of the Prosecutor*	*Registry*[b]	*Mechanism overall*
All staff	158	322	38	79	363	480
Staff on continuous posts	107	60	9	24	134	167
Staff on general temporary assistance positions	51	262	29	55	229	313
International staff (Professional and Field Service)	88	139	30	50	147	227
Local staff (General Service)	70	183	8	29	216	253

[a] Chambers includes the Office of the President. Chambers staffing data exclude judges. In the budget for the Mechanism, Chambers staff are included in the Registry.

[b] Registry staff includes: Immediate Office of the Registrar; Archives and Records Section; Witness Support and Protection; Conference Support Services; Language Support Services; Public Relations; Administration; and Security, including at the United Nations Detention Facility and the United Nations Detention Unit.

Table 2
Geographical representation

	Arusha branch	*The Hague branch*	*Mechanism overall (percentage)*[a]
Nationalities	**39**	**54**	**69**
Geographical groups			
All staff			**480**
Africa	118	18	136 (28)
Asia-Pacific	8	17	25 (5)
Eastern Europe	4	80	84 (18)
Latin America and the Caribbean	2	6	8 (2)
Western Europe and other States	26	201	227 (47)
International staff (Professional and Field Service)			227
Africa	48	7	55 (24)
Asia-Pacific	8	7	15 (7)
Eastern Europe	4	31	35 (15)
Latin America and the Caribbean	2	3	5 (2)
Western Europe and other States	26	91	117 (52)
Local staff (General Service)			253
Africa	70	11	81 (32)
Asia-Pacific	0	10	10 (4)
Eastern Europe	0	49	49 (19)
Latin America and the Caribbean	0	3	3 (1)
Western Europe and other States	0	110	110 (43)

(Footnotes on following page)

* The data in the present enclosure represent the number of staff employed as at 1 November 2017. They do not represent the full complement of approved posts and general temporary assistance funding. Such information can be found in the budget for the Mechanism for the biennium 2016–2017 (A/70/378) and the related General Assembly resolution (70/243).

(Footnotes to table 2)

[a] As percentages are rounded to the nearest percentage point, the total may not add up exactly to 100 per cent.

African Group: Burundi, Cameroon, Congo, Democratic Republic of the Congo, Egypt, Ghana, Guinea, Kenya, Lesotho, Liberia, Madagascar, Mali, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

Asia-Pacific Group: China, Cyprus, Fiji, Indonesia, Iraq, Lebanon, Nepal, Pakistan, Philippines, Republic of Korea, Samoa and Thailand.

Eastern European Group: Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Latvia, Poland, Romania, Russian Federation, Serbia, the former Yugoslav Republic of Macedonia and Ukraine.

Latin American and Caribbean Group: Bolivia (Plurinational State of), Cuba, Dominican Republic, Guatemala, Haiti and Jamaica.

Western European and Other States Group: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Israel, Italy, Netherlands, New Zealand, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America.

Table 3
Gender representation

	Arusha branch	*The Hague branch*	*Mechanism overall (percentage)*
Professional staff (all levels)			
Male	28	48	76 (42)
Female	12	91	103 (58)
Professional staff (P-4 and above)			
Male	13	15	28 (45)
Female	2	32	34 (55)

Table 4
Staff by organ

	Arusha branch	*The Hague branch*	*Mechanism overall*
Chambers (including the Office of the President)	7	31	38
Office of the Prosecutor	15	64	79
Registry	136	227	363
Immediate Office of the Registrar	10	17	27
Archives and Records Section	18	11	29
Witness Support and Protection	11	17	28
Conference Support Services	0	18	18
Language Support Services	6	46	52
Public Relations	2	5	7
Administration	29	49	78
Security (including at the United Nations Detention Facility and the United Nations Detention Unit)	60	64	124

Enclosure 2

International Residual Mechanism for Criminal Tribunals: revised appropriations and expenditures for the biennium 2016–2017[a]

Table 1
Revised appropriations for the biennium 2016–2017 (net of staff assessment), by branch and organ
(United States dollars)

Branch	*Post and non-post*[b]	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: judges of the International Criminal Tribunal for Rwanda and after-service health insurance*	*Mechanism*
Arusha	Post		4 659 300	22 058 900		26 718 200
	Non-post	3 550 400	4 324 000	34 316 200	3 420 700	45 611 300
Subtotal		**3 550 400**	**8 983 300**	**56 375 100**	**3 420 700**	**72 329 500**
The Hague	Post		2 198 400	9 784 600		11 983 000
	Non-post	2 888 000	6 100 200	31 852 800		40 841 000
Subtotal		**2 888 000**	**8 298 600**	**41 637 400**		**52 824 000**
Overall	Post		6 857 700	31 843 500		38 701 200
	Non-post	6 438 400	10 424 200	66 169 000	3 420 700	86 452 300
Total		**6 438 400**	**17 281 900**	**98 012 500**	**3 420 700**	**125 153 500**

[b] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Table 2
Expenditures (net of staff assessment) as at 1 November 2017 (per Umoja), by branch and organ
(United States dollars)

Branch	*Post and non-post*[b]	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: judges of the International Criminal Tribunal for Rwanda and after-service health insurance*	*Mechanism*
Arusha	Post		4 858 774	16 262 695		21 121 469
	Non-post	424 102	1 273 466	20 199 879	2 705 805	24 603 252
Subtotal		**424 102**	**6 132 240**	**36 462 574**	**2 705 805**	**45 724 721**
The Hague	Post		2 311 434	9 179 668		11 491 102
	Non-post	2 044 554	8 382 200	37 574 783		48 001 537
Subtotal		**2 044 554**	**10 693 634**	**46 754 451**		**59 492 639**
Overall	Post		7 170 208	25 442 363		32 612 571
	Non-post	2 468 656	9 655 666	57 774 662	2 705 805	72 604 789
Total		**2 468 656**	**16 825 874**	**83 217 025**	**2 705 805**	**105 217 360**

[b] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

[a] The data in the present enclosure do not reflect resources provided to the Mechanism by the International Tribunal for the Former Yugoslavia through double-hatting arrangements or otherwise, as envisaged and encouraged by the Security Council in its resolutions 1966 (2010) and 2256 (2015).

Table 3

Percentage of biennial budget expended as at 1 November 2017, by branch and organ

Branch	*Post and non-post*[a]	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: judges of the International Criminal Tribunal for Rwanda and after-service health insurance*	*Mechanism*
Arusha	Post		104.3	73.7		79.1
	Non-post	11.9	29.5	58.9	79.1	53.9
Subtotal		**11.9**	**68.3**	**64.7**	**79.1**	**63.2**
The Hague	Post		105.1	93.8		95.9
	Non-post	70.8	137.4	118.0		117.5
Subtotal		**70.8**	**128.9**	**112.3**		**112.6**
Overall	Post		104.6	79.9		84.3
	Non-post	38.3	92.6	87.3		84.0
Total		**38.3**	**97.4**	**84.9**	**79.1**	**84.1**

[a] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Annex II

[Original: English and French]

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 May to 15 November 2017

I. Overview

1. The Prosecutor submits this eleventh progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 May and 15 November 2017.

2. During the reporting period, the Office of the Prosecutor of the Mechanism continued to focus on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in Rwanda and in the former Yugoslavia. The Office relies on the full cooperation of States to carry out its mandate in those areas successfully.

3. The Office of the Prosecutor continued to engage in intense trial and appeal work during the reporting period. The trial in the *Stanišić and Simatović* case commenced on 13 June 2017, and the Prosecution is presenting its evidence-in-chief. The Office also continued its preparation for the appeals hearings in the *Karadžić* and *Šešelj* cases. As previously reported, in addition to the trial and appeal activity in The Hague, the Office processed at both branches a high volume of other litigation arising from completed cases.

4. During the reporting period, the Office of the Prosecutor continued its efforts to reform and strengthen its fugitive tracking activities. The Office hosted a meeting of the European Task Force to review intelligence that had been gathered and identify necessary follow-up. The Office also completed the restructuring of its Fugitives and Investigations Unit, and a new tracking team leader has now been appointed. Recruitment exercises are under way for additional ad hoc tracking and investigative posts proposed in the budget for the Office for 2018–2019. The Office expresses its appreciation to the International Criminal Police Organization (INTERPOL), the Government of Rwanda and other partners for their strong support for the Office's efforts to locate and arrest the remaining fugitives.

5. Regarding national prosecutions of war crimes committed in Rwanda, the Office of the Prosecutor, within existing resources, continued to monitor cases referred to the Rwandan and French authorities, provide national justice sectors with access to the Mechanism's evidence collection and support national accountability for those crimes.

6. Regarding national prosecutions of war crimes committed in the former Yugoslavia, the Office of the Prosecutor focused its activities on ensuring continuity after the closure of the International Tribunal for the Former Yugoslavia. Authorities in the region expressed their commitment to continuing and strengthening cooperation with the Office and requested that the Office support their efforts to achieve their national war crimes strategies. In addition, the Office had open and concrete discussions on issues of concern with relevant national authorities.

7. In managing its work, the Office of the Prosecutor of the Mechanism continued to be guided by the views and requests of the Security Council set forth,

inter alia, in paragraphs 18 to 20 of its resolution 2256 (2015). The Office of the Prosecutor of the Mechanism, in conjunction with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, continued to implement the "one office" policy to further streamline operations and reduce costs by integrating staff and resources effectively across the Offices. The Office of the Prosecutor of the Mechanism also continued the coordinated transition of so-called "other functions" from the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia.

II. Trials and appeals

8. During the reporting period, the Office of the Prosecutor continued its work on one trial (*Stanišić and Simatović*) and two appeals proceedings (*Karadžić* and *Šešelj*) arising from cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the statute of the Mechanism and to the transitional arrangements (see Security Council resolution 1966 (2010), annexes 1 and 2). This ad hoc judicial activity is temporary in nature. It is also expected that the Office may have to conduct appeal proceedings in the *Mladić* case following the rendering of the trial judgment by the Tribunal scheduled for 22 November 2017.

A. Update on the progress of trials

9. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Pursuant to the statute of the Mechanism and to the transitional arrangements, the retrial is being conducted by the Mechanism.

10. Trial proceedings commenced on 13 June 2017. The Trial Chamber is sitting a limited schedule of three consecutive days a week owing to health concerns for one of the accused. There has also already been significant litigation as a result of the decision of the Trial Chamber to limit the Prosecution's evidence. The Office is currently exploring possible options for increasing the expeditiousness of the trial, and a proposal will be submitted to the Trial Chamber.

B. Update on the progress of appeals

1. Karadžić

11. On 24 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić for genocide, crimes against humanity and war crimes and sentenced him to a term of imprisonment of 40 years. On 5 December, the Office of the Prosecutor filed its appeal brief against the trial judgment. The Office identified four grounds of appeal, including against the acquittal for genocide in 1992 and the imposed sentence. The defence also filed its appeal brief, which set out 50 grounds of appeal. The Office completed the written appeals briefing in the case on 6 April 2017.

12. During the reporting period, the Office continued its preliminary preparations for the oral appeal hearing, while also engaging in a significant volume of related litigation.

2. Šešelj

13. On 31 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia acquitted Vojislav Šešelj by majority on all counts of the indictment. The Office of the Prosecutor filed its appeal brief on 18 July. The Office put forward two grounds of appeal, arguing that the Trial Chamber erred in law by failing to deliver a reasoned judgment and that the Trial Chamber erred in fact by acquitting the accused. The Office completed the written appeals briefing in the case on 22 February 2017.

14. During the reporting period, the Office worked intensively on its preparations for the oral appeal hearing, which is now scheduled to be held on 13 December 2017.

C. Cooperation with the Office of the Prosecutor

15. The Office of the Prosecutor continued to rely on the full cooperation of States to complete its mandate successfully. Access to documents, archives and witnesses by the Office is critical for ongoing trial and appeal proceedings of the Mechanism, as well as for locating and arresting fugitives and for witness protection.

16. During the reporting period, cooperation between the Office of the Prosecutor and Bosnia and Herzegovina, Croatia, Rwanda and Serbia remained satisfactory. The Office will require assistance in relation to trial, appeal, review and contempt proceedings, including the provision of evidence and access to witnesses, and it fully expects that its requests for assistance will be promptly and adequately processed.

17. Cooperation and support from States other than Rwanda and those of the former Yugoslavia, as well as from international organizations, remain integral to the successful completion of the activities of the Mechanism. The Office of the Prosecutor acknowledges once more the support it received during the reporting period from States Members of the United Nations and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe (OSCE) and INTERPOL.

18. The international community continued to play an important role in providing incentives for States to cooperate with the Mechanism and undertake national prosecutions of war crimes. The European Union's policy of conditionality, which links membership progress to full cooperation with the International Tribunal for the Former Yugoslavia and the Mechanism, remained a key tool for ensuring continued cooperation with the Mechanism and consolidating the rule of law in the States of the former Yugoslavia. Assistance is also increasingly needed to support the national prosecution of war crimes cases in Rwanda and the former Yugoslavia.

III. Fugitives

19. As of the end of the reporting period, eight fugitives indicted by the International Criminal Tribunal for Rwanda remained at large. The Office of the Prosecutor continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda after their arrest: Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Charles Ryandikayo and Phénéas Munyarugarama.

20. During the reporting period the Office of the Prosecutor continued its efforts to reform and strengthen its fugitive tracking activities. As indicated in the tenth progress report of the Prosecutor (S/2017/434, annex II), the Office began a necessary restructuring of its tracking team, having identified a mismatch between the structure and capacities of its tracking team and the activities needed at the present time to move the search for the remaining fugitives forward. The restructuring was completed during the reporting period. The Office established its Fugitives and Investigations Unit and a new tracking team leader was appointed. Recruitment exercises are under way for additional ad hoc tracking and investigative posts have been proposed in the budget for the Office for 2018–2019. The Office is grateful for the support of the Security Council and of the Member States for its proposed budget for 2018–2019. The Office's proposal for the Arusha branch provides for a temporary increase in resources for the Fugitives and Investigations Unit while also reclassifying fugitive tracking from a core to an ad hoc function, which clarifies the fact that activity is temporary and must be brought to a close in a reasonable time period.

21. During the reporting period, the Office of the Prosecutor focused its tracking activities on reviewing, following up and closing leads that had been generated in the past but not processed. The Office foresees a significant increase in requests for assistance to Member States in Africa and Europe and fully expects that those requests will be promptly and positively answered. The Office continued its strong cooperation with partners in Europe and hosted a meeting of the European Task Force to review intelligence that had been gathered and identify necessary follow-up. Strategies for relevant fugitives were also reviewed and updated. The Office is grateful for the assistance of its European partners and looks forward to continuing to work closely with them. The Office plans to convene the next meeting of the African Task Force in early 2018 once relevant intelligence and leads have been reviewed and further follow-up action has been identified.

22. While the Office of the Prosecutor is undertaking steps within its control to improve its tracking efforts, fugitives will only be successfully located and arrested if national authorities provide full and prompt cooperation. The Office is grateful for all efforts by members of the Security Council, individually and collectively, to remind Member States of their obligation to cooperate with the Mechanism and to emphasize the importance and desirability of locating and arresting the remaining eight fugitives. The political support provided by the Council has been critical to the arrest of fugitives in the past and will continue to be an essential element in achieving results in future.

IV. Assistance to national war crimes prosecutions

23. National prosecutions are now essential to achieve greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. Consistent with the completion strategies of both International Tribunals, Security Council resolutions 1966 (2010) and 2256 (2015) and the statute of the Mechanism, the Office of the Prosecutor is mandated to assist and support effective national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territory for crimes committed in Rwanda and the former Yugoslavia.

24. The Office continued its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with counterparts and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

A. War crimes committed in Rwanda

25. Five cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis of its Rules of Procedure and Evidence are currently being processed in the national courts of France and Rwanda. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007. Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were transferred to Rwanda in 2012, 2013 and 2016, respectively. All proceedings remain ongoing.

1. Extradition of suspects of genocide

26. All those suspected of committing crimes during the Rwandan genocide must be brought to justice, whether in Rwanda or another State. Consistent with the principle of complementarity and national ownership of post-conflict accountability, prosecutions by the Rwandan justice sector in accordance with international due process and fair trial standards are in principle the most advantageous accountability mechanism. In that regard, the Office of the Prosecutor encourages the international community to continue its efforts to support and strengthen the Rwandan criminal justice sector by providing financial assistance and capacity-building as may be needed.

27. A number of States have recently extradited to Rwanda individuals suspected of genocide for trial. In November 2016, the Netherlands extradited two Rwandan nationals to Rwanda to stand trial for their alleged participation in the Rwandan genocide. The extradition followed extensive litigation in Dutch courts, with the Court of Appeal ultimately ruling that extradition was consistent with national law and international legal obligations. Similarly, in August 2017, Germany extradited one Rwandan national to Rwanda to stand trial on genocide charges. This was the first such extradition from Germany to Rwanda. The extraditions from both the Netherlands and Germany relied upon and were consistent with the determination of the International Criminal Tribunal for Rwanda and the Mechanism that the conditions for fair trials were met in Rwanda.

28. Unfortunately, during the reporting period, the High Court of Justice of England and Wales issued its decision on appeal denying the request of Rwanda for the extradition of five individuals suspected of genocide. The High Court ruled that, if extradited, the five suspects would be at risk of a flagrant denial of fair trial, and it held that the extradition of two suspects was barred by relevant national legislation. Relevant authorities will now need to ensure that the five suspects are investigated and prosecutorial decisions are taken.

29. The Office of the Prosecutor notes that Rwanda has already undertaken an extensive reform programme to ensure that international fair trial standards are met in its national courts. It was on the basis of those reforms, and an extensive evidentiary record, that the International Criminal Tribunal for Rwanda and the Mechanism determined that the conditions for fair trials were met in Rwanda. It is hoped that those international precedents will be given full consideration in national extradition proceedings. Should it be determined that additional steps are needed to enable extraditions to Rwanda, Rwanda should be informed concretely of what is

required and given the opportunity to continue to demonstrate its commitment to fair genocide trials in its courts.

2. Cases referred to France

30. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2005 on four counts, namely genocide, rape as a crime against humanity, extermination as a crime against humanity and murder as a crime against humanity. The indictment was referred by the Tribunal to France for trial on 20 November 2007. As previously reported, the investigation by French authorities in the *Munyeshyaka* case has not resulted in charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, the investigating judge issued a decision on 2 October 2015 to dismiss the case, which the civil parties appealed. The appeal hearing, scheduled to take place on 8 November 2017 before the Investigation Chamber of the Court of Appeals of Paris, has been postponed to 31 January 2018.

31. Laurent Bucyibaruta, the prefect of Gikongoro Prefecture, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts, namely direct and public incitement to commit genocide, genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The indictment was referred by the International Criminal Tribunal for Rwanda to France for trial on 20 November 2007. The investigation by French authorities has now been completed. The Office of the Prosecutor is expected to submit its final conclusions to the investigating judge by the end of 2017. It will be some months before a decision as to whether to proceed to trial can be expected.

32. The slow progress in both cases remains of significant concern to the Office of the Prosecutor. Although confirmed indictments in both cases were referred by the International Criminal Tribunal for Rwanda to France in 2007, neither case has gone to trial or been closed 10 years later. The Office of the Prosecutor recognizes the challenges the French judiciary has faced in processing those cases, in particular the lack of sufficient resources, and hopes that lessons learned from those experiences can contribute to the successful investigation and prosecution of international crimes in French courts in future.

3. Cases referred to Rwanda

33. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts, namely genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012, and the trial commenced on 14 May 2012. On 30 December 2015, the High Court issued its trial judgment, convicting Mr. Uwinkindi and sentencing him to life imprisonment. Appeals proceedings are under way.

34. Bernard Munyagishari, a local leader in the *Mouvement républicain national pour la démocratie et le développement* party, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts, namely conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. On 20 April 2017, the High Court issued its trial judgment, convicting Mr. Munyagishari of genocide and murder as a crime against humanity, acquitting him of rape as a crime against humanity and sentencing him to life imprisonment. Appeals proceedings are under way.

35. Ladislas Ntaganzwa, mayor of Nyakizu commune, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him with five counts, namely genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016. Trial proceedings are now under way.

B. War crimes committed in the former Yugoslavia

1. Denial of crimes and non-acceptance of established facts

36. The Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism have regularly reported that the denial of crimes and non-acceptance of facts established in the judgments of the Tribunal are widespread throughout the region. Convicted war criminals are often glorified as heroes. Students in different countries, as well as within Bosnia and Herzegovina itself, are taught widely different and irreconcilable versions of the recent past. The Office has expressed its grave concern in this regard and called for urgent attention to those issues.

37. Unfortunately, developments during the reporting period confirmed again that the challenges are severe. The Office of the Prosecutor must register its deep concern about recent events and statements in relation to General Vladimir Lazarević, who was convicted for crimes against humanity by the International Tribunal for the Former Yugoslavia and sentenced to 14 years of imprisonment. In 2016, the Office critically noted that Lazarević had been returned by official government plane to Serbia after his release from prison and given a hero's welcome attended by the then Ministers of Defence and of Justice. During the reporting period, the current Serbian Minister of Defence publicly praised General Lazarević and denied the crimes that were committed by Serbian forces in Kosovo in 1999. General Lazarević was also invited to give a lecture to the Serbian Military Academy, where he gave remarks entitled "Heroism and Humanity of Serbian Soldiers in Defence against the NATO Aggression and in Anti-Terrorist Operations in Kosovo 1998/99". In response to the concerns raised about those events and statements, Serbian authorities pointed to the fact that Lazarević had served his sentence and argued that convicted war criminals were similarly glorified in other countries.

38. The denial of crimes and the glorification of convicted war criminals are certainly not limited to Serbia. In his twenty-second completion strategy report to the Security Council (S/2014/827, annex II), the Prosecutor of the International Tribunal for the Former Yugoslavia equally expressed its serious concern about earlier, similar events. In June 2014, Dario Kordić received a public hero's welcome in Zagreb upon his early release from prison, with officials present at the event. In September 2013, upon his early release from prison, Momčilo Krajišnik received a public hero's welcome in Pale, which was organized by his political party. More recently, the Prosecutor orally briefed the Council that, in June 2017, an ultranationalist singer who had been banned in several countries performed at a benefit concert in Mostar for the six accused convicted at trial in the *Prlić et al.* case. Civil society also strongly protested against those and other events.

39. Messrs. Lazarević, Kordić and Krajišnik were all convicted for horrific crimes against humanity and war crimes. All three, as senior officials and commanders, participated in ethnic cleansing campaigns harming millions and devastating communities. The mentality that can regard those men as heroes is difficult to understand.

2. Regional judicial cooperation

40. Judicial cooperation among the countries of the former Yugoslavia is essential to ensure that those responsible for war crimes are held accountable. Many suspects may not be present in the territory where they are alleged to have committed such crimes and cannot be extradited to the territorial State for prosecution. The Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism have repeatedly called attention to the negative trends in regional judicial cooperation in war crimes justice.

41. In his ninth progress report (S/2016/975, annex II), the Prosecutor of the Mechanism noted that the political environment was not supportive of regional judicial cooperation and called upon all political and governmental officials in the region to act responsibly and refrain from politicizing war crimes proceedings. Unfortunately, those negative trends continued during the reporting period, as exemplified by reactions to the acquittal at trial of Naser Orić by the Court of Bosnia and Herzegovina. While some Serbian officials made restrained comments, the Minister of Justice of Serbia claimed that the decision had been motivated by ethnic bias and demonstrated that the State Court would not provide justice for Serb victims. The President of the Republika Srpska likewise claimed that the judges had shown ethnic bias and demanded that all Bosnian Serbs leave the Office of the Prosecutor and the Court of Bosnia and Herzegovina. Yet, on the same date, as the acquittal in the *Orić* case, the Court entered a conviction at trial for the rape of a Bosnian Serb victim, which passed without comment. Similarly, and as stated in the tenth progress report of the Prosecutor of the Mechanism, the Office of the Prosecutor of Bosnia and Herzegovina has commenced important trials against senior Bosnian Croat officials for crimes against humanity against Bosnian Serb victims in Orasje and against a senior Commander of the Army of Bosnia and Herzegovina for war crimes against Bosnian Serb victims.

42. While war crimes cases inevitably produce strong emotions, and acquittals can be difficult to accept, there are clear reasons why responsible officials should refrain from politicizing them. As a result of the public statements prejudging the responsibility of Mr. Orić, further appeal proceedings in Bosnia and Herzegovina, whatever the outcome, will be cast in doubt, and any further criminal proceeding in Serbia against him will inevitably be tainted and likely assessed as unfair. Such prejudgment by public officials has previously led to the denial of Serbia's extradition requests, and those statements will likely be seen in foreign courts in a similar way. In addition, such statements have a significant chilling effect on regional judicial cooperation, with the perverse consequence that fewer Serb victims may receive justice in future. Finally, the politicization of justice in one area or country has inevitably an impact on public trust in the judiciary and the rule of law, as well as in other areas and in other countries.

43. Recognizing the need for confidence-building measures, the Office of the Prosecutor of the Mechanism engaged during the reporting period with chief prosecutors and national authorities in Bosnia and Herzegovina and Serbia. The Office can report that there was general acknowledgement that regional judicial cooperation should be strengthened to secure justice for more victims. In a positive development, the chief prosecutors of those two countries have expressed their desire to improve their mutual cooperation on concrete cases and have committed to exploring how to build upon past successes in order to further strengthen cooperation between their offices. The Office of the Prosecutor welcomes this development and has committed to providing its full support and assistance. The Office hopes to be able to report progress in future reports.

3. Bosnia and Herzegovina

44. The Office of the Prosecutor held positive discussions with the Presidency of Bosnia and Herzegovina and the Acting Chief War Crimes Prosecutor about continued cooperation with the Mechanism and its Office of the Prosecutor. The Acting Chief Prosecutor underlined her desire for even closer cooperation and collaboration with the Office, including through assistance on concrete cases, strategic support and activities to transfer the lessons learned at the International Tribunal for the Former Yugoslavia. The Office of the Prosecutor of the Mechanism committed to continuing to support the work of the Office of the Prosecutor of Bosnia and Herzegovina, in particular in pursuing the mutual goal of implementing the national war crimes strategy successfully.

45. During the reporting period, the Office of the Prosecutor of Bosnia and Herzegovina only filed a limited number of indictments; however, it expects to file many more in important complex cases before the end of the year. At the same time, the revision of the national war crimes strategy has not yet been completed by the supervisory body. The Office of the Prosecutor of the Mechanism underlines that important progress has been made over the past few years in the work of the Office of the Prosecutor of Bosnia and Herzegovina and it encourages further progress to prevent any regression. The Office of the Prosecutor of Bosnia and Herzegovina has committed to continuing to undertake reforms in its management, policies and practices in order to improve the efficiency and effectiveness of its work, including by implementing recommendations made in the report commissioned by OSCE.[1] The Office of the Prosecutor of the Mechanism will continue to work with the Office of the Prosecutor of Bosnia and Herzegovina and other prosecution offices in Bosnia and Herzegovina to achieve further progress in holding those responsible for war crimes accountable. This work will include the remaining so-called "rules of the road" cases initially reviewed by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, which have been jointly identified as an important priority for action.

46. The Prosecutor of the Mechanism and the Acting Chief War Crimes Prosecutor held a joint meeting in November with victims' representatives from all ethnic groups and areas of Bosnia and Herzegovina. The victims' representatives explained their expectations and issues of concern, while the staff of the Office of the Prosecutor of Bosnia and Herzegovina provided information on progress made with cases and answered questions. All victims' representatives underlined their desire for a stronger rule of law, justice for more victims and progress in reconciliation. The Office of the Prosecutor of the Mechanism commends the Acting Chief Prosecutor for that important initiative, which helps to build public trust in the work of the State-level judiciary and the national processing of war crimes cases.

4. Croatia

47. The Office of the Prosecutor must regrettably report to the Security Council that the Government of Croatia continues to interfere politically in the justice process, with the result that a large number of war crimes cases against Croatian nationals are frozen. Despite the direct engagement of the Office with Croatian authorities and the Office of the State Attorney, very little progress has been achieved over the past two years. There can now be no question that the policies of the Government of Croatia are having the effect of promoting impunity throughout the region at the expense of victims, who deserve justice.

[1] Joanna Korner, *Processing of War Crimes at the State Level in Bosnia and Herzegovina*. Available from www.osce.org/bih/247221?download=true.

48. As previously reported, the Government of Croatia adopted in 2015 a conclusion not to provide regional judicial cooperation in certain cases involving Croatian nationals accused of war crimes and crimes against humanity. That conclusion remains in force and constitutes a clear political interference in war crimes justice. No satisfactory explanations have been provided for the maintenance of that policy, and indeed none could be provided, in particular by a Member State of the European Union. The Government of Croatia should withdraw that conclusion immediately and allow the justice process to continue without further interference. The Office of the Prosecutor intends to continue to raise this matter at the highest levels in Zagreb and, if necessary, Brussels, until corrective action is taken.

49. The Office of the Prosecutor is equally not satisfied with the lack of evident progress in the investigation and prosecution of the four category II case files that should be transferred to the Office of the State Attorney of Croatia from the Office of the Prosecutor of Bosnia and Herzegovina. The Office of the Prosecutor of the Mechanism reiterates its willingness to provide full support and assistance to the Office of the State Attorney in those cases, including making expert staff with case-specific knowledge of the crimes and suspects available. The Office of the Prosecutor of the Mechanism will convene a meeting with the Office of the State Attorney of Croatia and the Office of the Prosecutor of Bosnia and Herzegovina in the near future to discuss concrete issues so that those cases may move forward.

5. Serbia

50. The Office of the Prosecutor of the Mechanism held open and concrete discussions with the President, the Prime Minister and the Chief War Crimes Prosecutor of Serbia about outstanding issues and the continued cooperation of Serbian authorities with the Mechanism and its Office of the Prosecutor. It was agreed that Serbia would continue to strengthen its cooperation with the Office and support regional judicial cooperation in war crimes justice. The Office of the Prosecutor of the Mechanism committed to continuing to support the work of the Office of the War Crimes Prosecutor, in particular in pursuing the mutual goal of implementing the national war crimes strategy of Serbia successfully.

51. As stated in the ninth and tenth progress reports of the Prosecutor, Serbian authorities made a number of commitments, which were not honoured in a timely manner, to demonstrate action on issues previously raised by the Office of the Prosecutor. Those issues were discussed again. No progress has been made with the transfer of the accused of contempt to the International Tribunal for the Former Yugoslavia. One issue has been addressed fully, namely the appointment of the new Chief War Crimes Prosecutor after a delay of one year and a half. The Office of the Prosecutor took note that a step had been taken towards the implementation of the national war crimes strategy with the first meeting of the steering body to oversee the strategy, on 19 September 2017. Serbian authorities committed to the completion of the recruitment of a deputy prosecutor in the Office of the War Crimes Prosecutor by the end of 2017, which would be a step towards ensuring sufficient resources for that Office in accordance with the national war crimes strategy. The Serbian authorities also committed to addressing outstanding issues in relation to the War Crimes Investigative Service by the end of 2017.

52. The *Djukić* case, raised in previous reports of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and of the Office of the Prosecutor of the Mechanism, was the subject of intense discussions. The arguments provided by the Serbian authorities for failing to enforce Mr. Djukić's sentence were not convincing. The Office of the Prosecutor remains of the view that Serbia should execute the sentence expeditiously in accordance with international norms, which

would not prevent Mr. Djukić in any way from then raising any complaints before the Bosnian judiciary or, ultimately, the European Court of Human Rights.

53. Overall, progress with regard to war crimes justice in Serbia remains insufficient, and impunity for many well-established crimes remains the norm. At the time of reporting, only one new war crimes indictment had been confirmed in 2017, while a number of important cases had not progressed because of defence challenges based on the long delay in the appointment of the Chief War Crimes Prosecutor. The new Chief War Crimes Prosecutor only assumed her position in June 2017. Significant efforts will be required to move war crimes justice in Serbia in a more positive direction, and the work of the Office of the War Crimes Prosecutor should be assessed moving forward. In that regard, the development of an objective prosecutorial strategy focused on achieving more independent and impartial accountability in Serbia, in particular in complex cases against senior- and mid-level suspects, will be a critical first step. The Office of the War Crimes Prosecutor must meet high expectations for meaningful justice, and the Office of the Prosecutor of the Mechanism is committed to continuing to provide the support and assistance necessary.

C. Access to information and evidence

54. With the closure of the International Criminal Tribunal for Rwanda and the approaching completion of the mandate of the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now depends on national justice sectors. The Office of the Prosecutor of the Mechanism seeks to support national judicial authorities prosecuting those crimes, in particular through the provision of access to evidence and information.

55. The Office possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The collection of evidence related to the crimes committed in the former Yugoslavia comprises more than 9 million pages of documents and thousands of hours of audio and video records, most of which were not introduced into evidence in any proceeding of the International Tribunal for the Former Yugoslavia and are thus only available from the Office of the Prosecutor. The collection of evidence related to the crimes committed in Rwanda comprises more than 1 million pages of documents. The Office's staff have unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

56. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

57. In relation to Rwanda, the Office of the Prosecutor received three requests for assistance from two Member States. Two of the requests have been processed. In total, the Office handed over 4,846 pages of documentation.

58. In relation to the former Yugoslavia, the Office of the Prosecutor received 169 requests for assistance from six Member States and two international organizations. One hundred and twenty-three requests for assistance were submitted by authorities in Bosnia and Herzegovina, 18 by Croatia, 3 by Montenegro and 10 by Serbia. In total, the Office handed over 3,581 documents comprising more than 84,850 pages and 131 audio and video records. In addition, the Office filed submissions in relation to 25 requests for variation of witness protective measures concerning proceedings in Bosnia and Herzegovina and in Montenegro. The Office continued to receive a high volume of requests for assistance during the reporting period and expects to receive an even larger volume in future.

59. The joint European Union-Mechanism training project for national prosecutors and young professionals continued during the reporting period. Liaison prosecutors from Bosnia and Herzegovina, Croatia and Serbia are working with the Office of the Prosecutor to support the transfer of evidence and expertise to their home offices and to national prosecutions of war crimes committed in the former Yugoslavia. Similarly, young professionals from those countries are doing internships at the Office, supporting ongoing Mechanism trials and appeals. The Office is grateful to the European Union for its consistent support for this important project and for recognizing the ongoing need for building capacities in national justice sectors.

D. Capacity-building

60. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. Its capacity-building efforts focused on the Great Lakes region and East Africa, the former Yugoslavia and global initiatives. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability.

61. Upon request for assistance from partners in Rwanda, Uganda and the United Republic of Tanzania to improve the capacity of national judiciaries to prosecute war crimes, the Office conducted an advanced training in Kigali on the prosecution of international crimes. The training, which was aimed at domestic prosecutors from East Africa, was well-received by the 40 participants and continued the successful training programmes that the Office has conducted in East Africa. Another training is already planned in Kampala in mid-2018.

62. During the reporting period, the Office of the Prosecutor of the Mechanism and the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia jointly published a book entitled *Prosecuting Conflict-related Sexual Violence at the ICTY* in Bosnian/Croatian/Serbian. This publication was launched during the Legacy Dialogues Conference held by the Tribunal in Sarajevo in June 2017. The Office also continued its efforts to develop a complementary training programme to help to raise the awareness of practitioners in the States of the former Yugoslavia and elsewhere about the key insights and messages of the book.

63. Finally, on 30 and 31 October 2017, the Office of the Prosecutor of the Mechanism conducted a peer-to-peer workshop in Sarajevo to facilitate the filing of applications for variation of witness protection measures with the Tribunal and the Mechanism. The workshop was attended by approximately 50 prosecutors and legal staff from the Office of the Prosecutor of Bosnia and Herzegovina, the Office of the Federal Prosecutor of the Federation of Bosnia and Herzegovina, offices of cantonal prosecutors and the Office of the Special Prosecutor of Montenegro. Participants concluded that the training had meaningfully improved their skills in handling witness protection measures and requested further concrete trainings and peer-to-peer engagement with the Office of the Prosecutor of the Mechanism on practical issues in their work.

64. Within the limits of its operational capacity and existing resources, the Office of the Prosecutor of the Mechanism will continue to engage with training providers and with donors to ensure that appropriate practical training on investigative and prosecutorial techniques in war crimes justice is made available. The Office expresses its deep gratitude to partners, including the European Union, the International Association of Prosecutors, the Nuremberg Principles Academy, OSCE and the Government of Switzerland for providing financial, logistical and other support to enable the Office's capacity-building and training efforts.

E. Missing persons and victim compensation

65. In the Prosecutor's meetings with victims associations, the lack of information concerning missing family members continued to be consistently identified as one of the most important outstanding issues. The search for and exhumation of mass graves and the subsequent identification of the remains need to be accelerated as it is essential for surviving family members and fundamental to reconciliation in Rwanda and in the States of the former Yugoslavia. Victims from all sides of the conflicts must be identified.

66. The Office of the Prosecutor also encourages its national counterparts to actively work within existing legal frameworks to incorporate victim compensation claims into criminal trial proceedings where possible. Procedures should be streamlined to assist war crimes victims in obtaining redress and to discourage the imposition of unnecessary burdens upon victims.

V. Other residual functions

67. During the reporting period, the Office of the Prosecutor continued to perform its responsibilities with respect to other residual functions, namely the protection of victims and witnesses, contempt of court and false testimony, the enforcement of sentences, the review of judgments and the management of records and archives.

68. The volume of litigation before the Mechanism arising from completed cases continued to be higher than expected. During the reporting period, the Office of the Prosecutor responded to a large number of requests for variation of protective measures and motions for access to case files. The Office continued to investigate and litigate a review proceeding at the Arusha branch, while also responding to a number of additional motions in relation to review proceedings. The Office also continued to provide information in relation to the enforcement of sentences of persons convicted by the two International Tribunals. Those developments put a strain on the Office's limited resources, in particular at the Arusha branch. The Office was nonetheless able to make sufficient resources available, in particular through its "one office" policy. The Office will continue to monitor the volume of review motions and will report as necessary.

69. As previously reported, the Office of the Prosecutor has proposed two amendments to the Rules of Procedure and Evidence of the Mechanism in relation to the enforcement of sentences, the protection of witnesses and assistance to national jurisdictions. Critically, the Office has proposed to amend rule 151 concerning general standards for granting pardon, the commutation of sentence or early release to establish a programme for conditional early release. The Office is not satisfied with the fact that convicted persons continue to be released almost automatically after serving only two-thirds of their sentences. It is further deeply distressing, in particular to the victims, that those granted early release often deny the crimes and their criminal responsibility immediately upon returning home. The proposed amendments would address those legitimate concerns by creating a conditional early release programme, which would align the Mechanism's rules with best practices and established sentencing principles. The Office trusts that the judges will take a decision that is consistent with the interests of justice.

70. Consistent with Security Council resolution 1966 (2010) and article 6 of the transitional arrangements, the Office of the Prosecutor of the Mechanism continued during the reporting period the coordinated transition of so-called "other functions" from the Office of the Prosecutor of the International Tribunal for the Former

Yugoslavia. The transition will be completed by the end of 2017, when the final posts of the Office of the Prosecutor of the Tribunal are abolished.

VI. Management

A. Overview

71. The Office of the Prosecutor is committed to managing its staff and resources in line with the Security Council's instruction that the Mechanism be a small, temporary and efficient structure. The Office continues to be guided by the views and requests of the Security Council set forth, inter alia, in paragraphs 18 to 20 of its resolution 2256 (2015).

72. An important component of the efforts of the Office of the Prosecutor in that respect is the "one office" approach to integrate the staff and resources of the Office of the Prosecutor of the Mechanism and of the Office of the International Tribunal for the Former Yugoslavia for the period of their coexistence. Under the policy, all Prosecution staff are available to "double-hat" so that they may be flexibly assigned to work for either the Mechanism or the Tribunal, depending on operational requirements and their case-related knowledge. During the reporting period, staff of the Office of the Prosecutor assisted the Office of the Prosecutor of the Tribunal with meeting its obligations in the *Mladić* and *Prlić et al.* cases, while staff of the Office of the Prosecutor of the Tribunal assisted the Office of the Prosecutor of the Mechanism in relation to the *Karadžić* and *Šešelj* appeals and the *Stanišić and Simatović* trial.

73. The Office of the Prosecutor of the Mechanism takes note of the projections for the duration of the Mechanism's functions prepared by the President of the Mechanism and provided in his report. In relation to trial and appeal activities, the Office is committed to continuing to meet all imposed deadlines and will further endeavour to explore all reasonable options within its control to expedite the completion of that work.

B. Audit reports

74. There are no outstanding audit recommendations for the Office at this time.

VII. Conclusion

75. During the reporting period, the Office of the Prosecutor engaged in intensive efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda and continued its efforts to reform and strengthen its tracking activities. The Office underscores its commitment to arresting the remaining fugitives as soon as possible. State cooperation will be essential to achieve that goal, and the Office appreciates the support that has already been provided.

76. The Office continued to litigate one trial and two appeals before the Mechanism, both of which were transferred from the International Tribunal for the Former Yugoslavia in accordance with the statute of the Mechanism and the transitional arrangements. In addition to the trial and appeal activity in The Hague, the Office processed at both branches a high volume of other litigation arising from completed cases. Using the "one office" approach, the Office will continue to allocate and manage its resources flexibly in order to comply with all imposed deadlines.

77. Significant challenges remain with respect to national prosecutions of war crimes committed in the former Yugoslavia and Rwanda. Regarding war crimes committed in Rwanda, while there has been progress in the cases referred to Rwanda, cases referred to France are still pending 10 years after the original referrals. Regarding war crimes committed in the former Yugoslavia, the Office focused its activities during the reporting period on ensuring continuity after the forthcoming closure of the International Tribunal for the Former Yugoslavia. In addition, the Office had open and concrete discussions on issues of concern with relevant national authorities.

78. In all of its endeavours, the Office relies upon and gratefully acknowledges the support of the international community, and especially that of the Security Council.